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**JANICE K. BREWER
SECRETARY OF STATE**

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CHAPTER 76

SENATE BILL 1069

AN ACT

AMENDING SECTION 42-5061, ARIZONA REVISED STATUTES; AMENDING SECTION 43-222, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 2005, CHAPTER 12, SECTION 1, CHAPTER 264, SECTION 1, CHAPTER 316, SECTION 2 AND CHAPTER 317, SECTION 10; REPEALING SECTION 43-222, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 2005, CHAPTER 292, SECTION 1; AMENDING SECTION 43-1001, ARIZONA REVISED STATUTES; AMENDING SECTION 43-1021, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 2005, CHAPTER 316, SECTION 3 AND CHAPTER 317, SECTION 11; REPEALING SECTION 43-1021, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 2005, CHAPTER 292, SECTION 2; AMENDING SECTION 43-1022, ARIZONA REVISED STATUTES; AMENDING SECTION 43-1121, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 2005, CHAPTER 317, SECTION 13; REPEALING SECTION 43-1121, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 2005, CHAPTER 292, SECTION 4; RELATING TO TAXATION.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 42-5061, Arizona Revised Statutes, is amended to
3 read:

4 42-5061. Retail classification; definitions

5 A. The retail classification is comprised of the business of selling
6 tangible personal property at retail. The tax base for the retail
7 classification is the gross proceeds of sales or gross income derived from
8 the business. The tax imposed on the retail classification does not apply to
9 the gross proceeds of sales or gross income from:

10 1. Professional or personal service occupations or businesses which
11 involve sales or transfers of tangible personal property only as
12 inconsequential elements.

13 2. Services rendered in addition to selling tangible personal property
14 at retail.

15 3. Sales of warranty or service contracts. The storage, use or
16 consumption of tangible personal property provided under the conditions of
17 such contracts is subject to tax under section 42-5156.

18 4. Sales of tangible personal property by any nonprofit organization
19 organized and operated exclusively for charitable purposes and recognized by
20 the United States internal revenue service under section 501(c)(3) of the
21 internal revenue code.

22 5. Sales to persons engaged in business classified under the
23 restaurant classification of articles used by human beings for food, drink or
24 condiment, whether simple, mixed or compounded.

25 6. Business activity which is properly included in any other business
26 classification which is taxable under article 1 of this chapter.

27 7. The sale of stocks and bonds.

28 8. Drugs and medical oxygen, including delivery hose, mask or tent,
29 regulator and tank, on the prescription of a member of the medical, dental or
30 veterinarian profession who is licensed by law to administer such substances.

31 9. Prosthetic appliances as defined in section 23-501 prescribed or
32 recommended by a health professional licensed pursuant to title 32, chapter
33 7, 8, 11, 13, 14, 15, 16, 17 or 29.

34 10. Insulin, insulin syringes and glucose test strips.

35 11. Prescription eyeglasses or contact lenses.

36 12. Hearing aids as defined in section 36-1901.

37 13. Durable medical equipment which has a centers for medicare and
38 medicaid services common procedure code, is designated reimbursable by
39 medicare, is prescribed by a person who is licensed under title 32, chapter
40 7, 8, 13, 14, 15, 17 or 29, can withstand repeated use, is primarily and
41 customarily used to serve a medical purpose, is generally not useful to a
42 person in the absence of illness or injury and is appropriate for use in the
43 home.

1 14. Sales to nonresidents of this state for use outside this state if
2 the vendor ships or delivers the tangible personal property out of this
3 state.

4 15. Food, as provided in and subject to the conditions of article 3 of
5 this chapter and section 42-5074.

6 16. Items purchased with United States department of agriculture food
7 stamp coupons issued under the food stamp act of 1977 (P.L. 95-113; 91 Stat.
8 958) or food instruments issued under section 17 of the child nutrition act
9 (P.L. 95-627; 92 Stat. 3603; P.L. 99-661, section 4302; 42 United States Code
10 section 1786).

11 17. Textbooks by any bookstore that are required by any state
12 university or community college.

13 18. Food and drink to a person who is engaged in business which is
14 classified under the restaurant classification and which provides such food
15 and drink without monetary charge to its employees for their own consumption
16 on the premises during the employees' hours of employment.

17 19. Articles of food, drink or condiment and accessory tangible
18 personal property to a school district if such articles and accessory
19 tangible personal property are to be prepared and served to persons for
20 consumption on the premises of a public school within the district during
21 school hours.

22 20. Lottery tickets or shares pursuant to title 5, chapter 5,
23 article 1.

24 21. The sale of precious metal bullion and monetized bullion to the
25 ultimate consumer, but the sale of coins or other forms of money for
26 manufacture into jewelry or works of art is subject to the tax. For the
27 purposes of this paragraph:

28 (a) "Monetized bullion" means coins and other forms of money which are
29 manufactured from gold, silver or other metals and which have been or are
30 used as a medium of exchange in this or another state, the United States or a
31 foreign nation.

32 (b) "Precious metal bullion" means precious metal, including gold,
33 silver, platinum, rhodium and palladium, which has been smelted or refined so
34 that its value depends on its contents and not on its form.

35 22. Motor vehicle fuel and use fuel which are subject to a tax imposed
36 under title 28, chapter 16, article 1, sales of use fuel to a holder of a
37 valid single trip use fuel tax permit issued under section 28-5739, sales of
38 aviation fuel which are subject to the tax imposed under section 28-8344 and
39 sales of jet fuel which are subject to the tax imposed under article 8 of
40 this chapter.

41 23. Tangible personal property sold to a person engaged in the business
42 of leasing or renting such property under the personal property rental
43 classification if such property is to be leased or rented by such person.

1 24. Tangible personal property sold in interstate or foreign commerce
2 if prohibited from being so taxed by the Constitution of the United States or
3 the constitution of this state.

4 25. Tangible personal property sold to:

5 (a) A qualifying hospital as defined in section 42-5001.

6 (b) A qualifying health care organization as defined in section
7 42-5001 if the tangible personal property is used by the organization solely
8 to provide health and medical related educational and charitable services.

9 (c) A qualifying health care organization as defined in section
10 42-5001 if the organization is dedicated to providing educational,
11 therapeutic, rehabilitative and family medical education training for blind,
12 visually impaired and multihandicapped children from the time of birth to age
13 twenty-one.

14 (d) A qualifying community health center as defined in section
15 42-5001.

16 (e) A nonprofit charitable organization that has qualified under
17 section 501(c)(3) of the internal revenue code and that regularly serves
18 meals to the needy and indigent on a continuing basis at no cost.

19 (f) For taxable periods beginning from and after June 30, 2001, a
20 nonprofit charitable organization that has qualified under section 501(c)(3)
21 of the internal revenue code and that provides residential apartment housing
22 for low income persons over sixty-two years of age in a facility that
23 qualifies for a federal housing subsidy, if the tangible personal property is
24 used by the organization solely to provide residential apartment housing for
25 low income persons over sixty-two years of age in a facility that qualifies
26 for a federal housing subsidy.

27 26. Magazines or other periodicals or other publications by this state
28 to encourage tourist travel.

29 27. Tangible personal property sold to a person that is subject to tax
30 under this article by reason of being engaged in business classified under
31 the prime contracting classification under section 42-5075, or to a
32 subcontractor working under the control of a prime contractor that is subject
33 to tax under article 1 of this chapter, if the property so sold is any of the
34 following:

35 (a) Incorporated or fabricated by the person into any real property,
36 structure, project, development or improvement as part of the business.

37 (b) Used in environmental response or remediation activities under
38 section 42-5075, subsection B, paragraph 6.

39 (c) Incorporated or fabricated by the person into any lake facility
40 development in a commercial enhancement reuse district under conditions
41 prescribed for the deduction allowed by section 42-5075, subsection B,
42 paragraph 8.

43 28. The sale of a motor vehicle to:

44 (a) A nonresident of this state if the purchaser's state of residence
45 does not allow a corresponding use tax exemption to the tax imposed by

1 article 1 of this chapter and if the nonresident has secured a special ninety
2 day nonresident registration permit for the vehicle as prescribed by sections
3 28-2154 and 28-2154.01.

4 (b) An enrolled member of an Indian tribe who resides on the Indian
5 reservation established for that tribe.

6 29. Tangible personal property purchased in this state by a nonprofit
7 charitable organization that has qualified under section 501(c)(3) of the
8 United States internal revenue code and that engages in and uses such
9 property exclusively in programs for mentally or physically handicapped
10 persons if the programs are exclusively for training, job placement,
11 rehabilitation or testing.

12 30. Sales of tangible personal property by a nonprofit organization
13 that is exempt from taxation under section 501(c)(3), 501(c)(4) or 501(c)(6)
14 of the internal revenue code if the organization is associated with a major
15 league baseball team or a national touring professional golfing association
16 and no part of the organization's net earnings inures to the benefit of any
17 private shareholder or individual.

18 31. Sales of commodities, as defined by title 7 United States Code
19 section 2, that are consigned for resale in a warehouse in this state in or
20 from which the commodity is deliverable on a contract for future delivery
21 subject to the rules of a commodity market regulated by the United States
22 commodity futures trading commission.

23 32. Sales of tangible personal property by a nonprofit organization
24 that is exempt from taxation under section 501(c)(3), 501(c)(4), 501(c)(6),
25 501(c)(7) or 501(c)(8) of the internal revenue code if the organization
26 sponsors or operates a rodeo featuring primarily farm and ranch animals and
27 no part of the organization's net earnings inures to the benefit of any
28 private shareholder or individual.

29 33. Sales of seeds, seedlings, roots, bulbs, cuttings and other
30 propagative material to persons who use those items to commercially produce
31 agricultural, horticultural, viticultural or floricultural crops in this
32 state.

33 34. Machinery, equipment, technology or related supplies that are only
34 useful to assist a person who is physically disabled as defined in section
35 46-191, has a developmental disability as defined in section 36-551 or has a
36 head injury as defined in section 41-3201 to be more independent and
37 functional.

38 35. Sales of tangible personal property that is shipped or delivered
39 directly to a destination outside the United States for use in that foreign
40 country.

41 36. Sales of natural gas or liquefied petroleum gas used to propel a
42 motor vehicle.

43 37. Paper machine clothing, such as forming fabrics and dryer felts,
44 sold to a paper manufacturer and directly used or consumed in paper
45 manufacturing.

1 38. Coal, petroleum, coke, natural gas, virgin fuel oil and electricity
2 sold to a qualified environmental technology manufacturer, producer or
3 processor as defined in section 41-1514.02 and directly used or consumed in
4 the generation or provision of on-site power or energy solely for
5 environmental technology manufacturing, producing or processing or
6 environmental protection. This paragraph shall apply for fifteen full
7 consecutive calendar or fiscal years from the date the first paper
8 manufacturing machine is placed in service. In the case of an environmental
9 technology manufacturer, producer or processor who does not manufacture
10 paper, the time period shall begin with the date the first manufacturing,
11 processing or production equipment is placed in service.

12 39. Sales of liquid, solid or gaseous chemicals used in manufacturing,
13 processing, fabricating, mining, refining, metallurgical operations, research
14 and development and, beginning on January 1, 1999, printing, if using or
15 consuming the chemicals, alone or as part of an integrated system of
16 chemicals, involves direct contact with the materials from which the product
17 is produced for the purpose of causing or permitting a chemical or physical
18 change to occur in the materials as part of the production process. This
19 paragraph does not include chemicals that are used or consumed in activities
20 such as packaging, storage or transportation but does not affect any
21 deduction for such chemicals that is otherwise provided by this section. For
22 the purposes of this paragraph, "printing" means a commercial printing
23 operation and includes job printing, engraving, embossing, copying and
24 bookbinding.

25 40. Through December 31, 1994, personal property liquidation
26 transactions, conducted by a personal property liquidator. From and after
27 December 31, 1994, personal property liquidation transactions shall be
28 taxable under this section provided that nothing in this subsection shall be
29 construed to authorize the taxation of casual activities or transactions
30 under this chapter. For the purposes of this paragraph:

31 (a) "Personal property liquidation transaction" means a sale of
32 personal property made by a personal property liquidator acting solely on
33 behalf of the owner of the personal property sold at the dwelling of the
34 owner or upon the death of any owner, on behalf of the surviving spouse, if
35 any, any devisee or heir or the personal representative of the estate of the
36 deceased, if one has been appointed.

37 (b) "Personal property liquidator" means a person who is retained to
38 conduct a sale in a personal property liquidation transaction.

39 41. Sales of food, drink and condiment for consumption within the
40 premises of any prison, jail or other institution under the jurisdiction of
41 the state department of corrections, the department of public safety, the
42 department of juvenile corrections or a county sheriff.

43 42. A motor vehicle and any repair and replacement parts and tangible
44 personal property becoming a part of such motor vehicle sold to a motor

1 carrier who is subject to a fee prescribed in title 28, chapter 16, article 4
2 and who is engaged in the business of leasing or renting such property.

3 43. Livestock and poultry feed, salts, vitamins and other additives for
4 livestock or poultry consumption that are sold to persons who are engaged in
5 producing livestock, poultry, or livestock or poultry products or who are
6 engaged in feeding livestock or poultry commercially. For the purposes of
7 this paragraph, "poultry" includes ratites.

8 44. Sales of implants used as growth promotants and injectable
9 medicines, not already exempt under paragraph 8 of this subsection, for
10 livestock or poultry owned by or in possession of persons who are engaged in
11 producing livestock, poultry, or livestock or poultry products or who are
12 engaged in feeding livestock or poultry commercially. For the purposes of
13 this paragraph, "poultry" includes ratites.

14 45. Sales of motor vehicles at auction to nonresidents of this state
15 for use outside this state if the vehicles are shipped or delivered out of
16 this state, regardless of where title to the motor vehicles passes or its
17 free on board point.

18 46. Tangible personal property sold to a person engaged in business and
19 subject to tax under the transient lodging classification if the tangible
20 personal property is a personal hygiene item or articles used by human beings
21 for food, drink or condiment, except alcoholic beverages, which are furnished
22 without additional charge to and intended to be consumed by the transient
23 during the transient's occupancy.

24 47. Sales of alternative fuel, as defined in section 1-215, to a used
25 oil fuel burner who has received a permit to burn used oil or used oil fuel
26 under section 49-426 or 49-480.

27 48. Sales of materials that are purchased by or for publicly funded
28 libraries including school district libraries, charter school libraries,
29 community college libraries, state university libraries or federal, state,
30 county or municipal libraries for use by the public as follows:

31 (a) Printed or photographic materials, beginning August 7, 1985.

32 (b) Electronic or digital media materials, beginning July 17, 1994.

33 49. Tangible personal property sold to a commercial airline and
34 consisting of food, beverages and condiments and accessories used for serving
35 the food and beverages, if those items are to be provided without additional
36 charge to passengers for consumption in flight. For the purposes of this
37 paragraph, "commercial airline" means a person holding a federal certificate
38 of public convenience and necessity or foreign air carrier permit for air
39 transportation to transport persons, property or United States mail in
40 intrastate, interstate or foreign commerce.

41 50. Sales of alternative fuel vehicles if the vehicle was manufactured
42 as a diesel fuel vehicle and converted to operate on alternative fuel and
43 equipment that is installed in a conventional diesel fuel motor vehicle to
44 convert the vehicle to operate on an alternative fuel, as defined in section
45 1-215.

1 51. Sales of any spirituous, vinous or malt liquor by a person that is
2 licensed in this state as a wholesaler by the department of liquor licenses
3 and control pursuant to title 4, chapter 2, article 1.

4 52. Sales of tangible personal property to be incorporated or installed
5 as part of environmental response or remediation activities under section
6 42-5075, subsection B, paragraph 6.

7 53. Sales of tangible personal property by a nonprofit organization
8 that is exempt from taxation under section 501(c)(6) of the internal revenue
9 code if the organization produces, organizes or promotes cultural or civic
10 related festivals or events and no part of the organization's net earnings
11 inures to the benefit of any private shareholder or individual.

12 B. In addition to the deductions from the tax base prescribed by
13 subsection A of this section, the gross proceeds of sales or gross income
14 derived from sales of the following categories of tangible personal property
15 shall be deducted from the tax base:

16 1. Machinery, or equipment, used directly in manufacturing,
17 processing, fabricating, job printing, refining or metallurgical operations.
18 The terms "manufacturing", "processing", "fabricating", "job printing",
19 "refining" and "metallurgical" as used in this paragraph refer to and include
20 those operations commonly understood within their ordinary meaning.
21 "Metallurgical operations" includes leaching, milling, precipitating,
22 smelting and refining.

23 2. Mining machinery, or equipment, used directly in the process of
24 extracting ores or minerals from the earth for commercial purposes, including
25 equipment required to prepare the materials for extraction and handling,
26 loading or transporting such extracted material to the surface. "Mining"
27 includes underground, surface and open pit operations for extracting ores and
28 minerals.

29 3. Tangible personal property sold to persons engaged in business
30 classified under the telecommunications classification and consisting of
31 central office switching equipment, switchboards, private branch exchange
32 equipment, microwave radio equipment and carrier equipment including optical
33 fiber, coaxial cable and other transmission media which are components of
34 carrier systems.

35 4. Machinery, equipment or transmission lines used directly in
36 producing or transmitting electrical power, but not including distribution.
37 Transformers and control equipment used at transmission substation sites
38 constitute equipment used in producing or transmitting electrical power.

39 5. Neat animals, horses, asses, sheep, ratites, swine or goats used or
40 to be used as breeding or production stock, including sales of breedings or
41 ownership shares in such animals used for breeding or production.

42 6. Pipes or valves four inches in diameter or larger used to transport
43 oil, natural gas, artificial gas, water or coal slurry, including compressor
44 units, regulators, machinery and equipment, fittings, seals and any other
45 part that is used in operating the pipes or valves.

1 7. Aircraft, navigational and communication instruments and other
2 accessories and related equipment sold to:

3 (a) A person holding a federal certificate of public convenience and
4 necessity, a supplemental air carrier certificate under federal aviation
5 regulations (14 Code of Federal Regulations part 121) or a foreign air
6 carrier permit for air transportation for use as or in conjunction with or
7 becoming a part of aircraft to be used to transport persons, property or
8 United States mail in intrastate, interstate or foreign commerce.

9 (b) Any foreign government for use by such government outside of this
10 state.

11 (c) Persons who are not residents of this state and who will not use
12 such property in this state other than in removing such property from this
13 state. This subdivision also applies to corporations that are not
14 incorporated in this state, regardless of maintaining a place of business in
15 this state, if the principal corporate office is located outside this state
16 and the property will not be used in this state other than in removing the
17 property from this state.

18 8. Machinery, tools, equipment and related supplies used or consumed
19 directly in repairing, remodeling or maintaining aircraft, aircraft engines
20 or aircraft component parts by or on behalf of a certificated or licensed
21 carrier of persons or property.

22 9. Railroad rolling stock, rails, ties and signal control equipment
23 used directly to transport persons or property.

24 10. Machinery or equipment used directly to drill for oil or gas or
25 used directly in the process of extracting oil or gas from the earth for
26 commercial purposes.

27 11. Buses or other urban mass transit vehicles which are used directly
28 to transport persons or property for hire or pursuant to a governmentally
29 adopted and controlled urban mass transportation program and which are sold
30 to bus companies holding a federal certificate of convenience and necessity
31 or operated by any city, town or other governmental entity or by any person
32 contracting with such governmental entity as part of a governmentally adopted
33 and controlled program to provide urban mass transportation.

34 12. Groundwater measuring devices required under section 45-604.

35 13. New machinery and equipment consisting of tractors, tractor-drawn
36 implements, self-powered implements, machinery and equipment necessary for
37 extracting milk, and machinery and equipment necessary for cooling milk and
38 livestock, and drip irrigation lines not already exempt under paragraph 6 of
39 this subsection and that are used for commercial production of agricultural,
40 horticultural, viticultural and floricultural crops and products in this
41 state. For the purposes of this paragraph:

42 (a) "New machinery and equipment" means machinery and equipment which
43 have never been sold at retail except pursuant to leases or rentals which do
44 not total two years or more.

1 (b) "Self-powered implements" includes machinery and equipment that
2 are electric-powered.

3 14. Machinery or equipment used in research and development. For the
4 purposes of this paragraph, "research and development" means basic and
5 applied research in the sciences and engineering, and designing, developing
6 or testing prototypes, processes or new products, including research and
7 development of computer software that is embedded in or an integral part of
8 the prototype or new product or that is required for machinery or equipment
9 otherwise exempt under this section to function effectively. Research and
10 development do not include manufacturing quality control, routine consumer
11 product testing, market research, sales promotion, sales service, research in
12 social sciences or psychology, computer software research that is not
13 included in the definition of research and development, or other
14 nontechnological activities or technical services.

15 15. Machinery and equipment that are purchased by or on behalf of the
16 owners of a soundstage complex and primarily used for motion picture,
17 multimedia or interactive video production in the complex. This paragraph
18 applies only if the initial construction of the soundstage complex begins
19 after June 30, 1996 and before January 1, 2002 and the machinery and
20 equipment are purchased before the expiration of five years after the start
21 of initial construction. For the purposes of this paragraph:

22 (a) "Motion picture, multimedia or interactive video production"
23 includes products for theatrical and television release, educational
24 presentations, electronic retailing, documentaries, music videos, industrial
25 films, CD-ROM, video game production, commercial advertising and television
26 episode production and other genres that are introduced through developing
27 technology.

28 (b) "Soundstage complex" means a facility of multiple stages including
29 production offices, construction shops and related areas, prop and costume
30 shops, storage areas, parking for production vehicles and areas that are
31 leased to businesses that complement the production needs and orientation of
32 the overall facility.

33 16. Tangible personal property that is used by either of the following
34 to receive, store, convert, produce, generate, decode, encode, control or
35 transmit telecommunications information:

36 (a) Any direct broadcast satellite television or data transmission
37 service that operates pursuant to 47 Code of Federal Regulations parts 25 and
38 100.

39 (b) Any satellite television or data transmission facility, if both of
40 the following conditions are met:

41 (i) Over two-thirds of the transmissions, measured in megabytes,
42 transmitted by the facility during the test period were transmitted to or on
43 behalf of one or more direct broadcast satellite television or data
44 transmission services that operate pursuant to 47 Code of Federal Regulations
45 parts 25 and 100.

(ii) Over two-thirds of the transmissions, measured in megabytes, transmitted by or on behalf of those direct broadcast television or data transmission services during the test period were transmitted by the facility to or on behalf of those services.

For the purposes of subdivision (b) of this paragraph, "test period" means the three hundred sixty-five day period beginning on the later of the date on which the tangible personal property is purchased or the date on which the direct broadcast satellite television or data transmission service first transmits information to its customers.

17. Clean rooms that are used for manufacturing, processing, fabrication or research and development, as defined in paragraph 14 of this subsection, of semiconductor products. For the purposes of this paragraph, "clean room" means all property that comprises or creates an environment where humidity, temperature, particulate matter and contamination are precisely controlled within specified parameters, without regard to whether the property is actually contained within that environment or whether any of the property is affixed to or incorporated into real property. Clean room:

(a) Includes the integrated systems, fixtures, piping, movable partitions, lighting and all property that is necessary or adapted to reduce contamination or to control airflow, temperature, humidity, chemical purity or other environmental conditions or manufacturing tolerances, as well as the production machinery and equipment operating in conjunction with the clean room environment.

(b) Does not include the building or other permanent, nonremovable component of the building that houses the clean room environment.

18. Machinery and equipment used directly in the feeding of poultry, the environmental control of housing for poultry, the movement of eggs within a production and packaging facility or the sorting or cooling of eggs. This exemption does not apply to vehicles used for transporting eggs.

19. Machinery or equipment, including related structural components, that is employed in connection with manufacturing, processing, fabricating, job printing, refining, mining, natural gas pipelines, metallurgical operations, telecommunications, producing or transmitting electricity or research and development and that is used directly to meet or exceed rules or regulations adopted by the federal energy regulatory commission, the United States environmental protection agency, the United States nuclear regulatory commission, the Arizona department of environmental quality or a political subdivision of this state to prevent, monitor, control or reduce land, water or air pollution.

20. Machinery and equipment that are sold to a person engaged in the commercial production of livestock, livestock products or agricultural, horticultural, viticultural or floricultural crops or products in this state and that are used directly and primarily to prevent, monitor, control or reduce air, water or land pollution.

1 21. Machinery or equipment that enables a television station to
2 originate and broadcast or to receive and broadcast digital television
3 signals and that was purchased to facilitate compliance with the
4 telecommunications act of 1996 (P.L. 104-104; 110 Stat. 56; 47 United States
5 Code section 336) and the federal communications commission order issued
6 April 21, 1997 (47 Code of Federal Regulations part 73). This paragraph does
7 not exempt any of the following:

8 (a) Repair or replacement parts purchased for the machinery or
9 equipment described in this paragraph.

10 (b) Machinery or equipment purchased to replace machinery or equipment
11 for which an exemption was previously claimed and taken under this paragraph.

12 (c) Any machinery or equipment purchased after the television station
13 has ceased analog broadcasting, or purchased after November 1, 2009,
14 whichever occurs first.

15 22. Qualifying equipment that is purchased from and after June 30, 2004
16 through June 30, 2014 by a qualified business under section 41-1516 for
17 harvesting or the initial processing of qualifying forest products removed
18 from qualifying projects as defined in section 41-1516. To qualify for this
19 deduction, the qualified business at the time of purchase must present its
20 certification approved by the department.

21 23. Machinery, equipment and other tangible personal property used
22 directly in motion picture production by a motion picture production
23 company. To qualify for this deduction, at the time of purchase, the motion
24 picture production company must present to the retailer its certificate that
25 is issued pursuant to section 42-5009, subsection H and that establishes its
26 qualification for the deduction.

27 C. The deductions provided by subsection B of this section do not
28 include sales of:

29 1. Expendable materials. For the purposes of this paragraph,
30 expendable materials do not include any of the categories of tangible
31 personal property specified in subsection B of this section regardless of the
32 cost or useful life of that property.

33 2. Janitorial equipment and hand tools.

34 3. Office equipment, furniture and supplies.

35 4. Tangible personal property used in selling or distributing
36 activities, other than the telecommunications transmissions described in
37 subsection B, paragraph 16 of this section.

38 5. Motor vehicles required to be licensed by this state, except buses
39 or other urban mass transit vehicles specifically exempted pursuant to
40 subsection B, paragraph 11 of this section, without regard to the use of such
41 motor vehicles.

42 6. Shops, buildings, docks, depots and all other materials of whatever
43 kind or character not specifically included as exempt.

44 7. Motors and pumps used in drip irrigation systems.

1 D. In addition to the deductions from the tax base prescribed by
2 subsection A of this section, there shall be deducted from the tax base the
3 gross proceeds of sales or gross income derived from sales of machinery,
4 equipment, materials and other tangible personal property used directly and
5 predominantly to construct a qualified environmental technology
6 manufacturing, producing or processing facility as described in section
7 41-1514.02. This subsection applies for ten full consecutive calendar or
8 fiscal years after the start of initial construction.

9 E. In computing the tax base, gross proceeds of sales or gross income
10 from retail sales of heavy trucks and trailers does not include any amount
11 attributable to federal excise taxes imposed by 26 United States Code section
12 4051.

13 F. In computing the tax base, gross proceeds of sales or gross income
14 from the sale of use fuel, as defined in section 28-5601, does not include
15 any amount attributable to federal excise taxes imposed by 26 United States
16 Code section 4091.

17 G. If a person is engaged in an occupation or business to which
18 subsection A of this section applies, the person's books shall be kept so as
19 to show separately the gross proceeds of sales of tangible personal property
20 and the gross income from sales of services, and if not so kept the tax shall
21 be imposed on the total of the person's gross proceeds of sales of tangible
22 personal property and gross income from services.

23 H. If a person is engaged in the business of selling tangible personal
24 property at both wholesale and retail, the tax under this section applies
25 only to the gross proceeds of the sales made other than at wholesale if the
26 person's books are kept so as to show separately the gross proceeds of sales
27 of each class, and if the books are not so kept, the tax under this section
28 applies to the gross proceeds of every sale so made.

29 I. A person who engages in manufacturing, baling, crating, boxing,
30 barreling, canning, bottling, sacking, preserving, processing or otherwise
31 preparing for sale or commercial use any livestock, agricultural or
32 horticultural product or any other product, article, substance or commodity
33 and who sells the product of such business at retail in this state is deemed,
34 as to such sales, to be engaged in business classified under the retail
35 classification. This subsection does not apply to businesses classified
36 under the:

- 37 1. Transporting classification.
- 38 2. Utilities classification.
- 39 3. Telecommunications classification.
- 40 4. Pipeline classification.
- 41 5. Private car line classification.
- 42 6. Publication classification.
- 43 7. Job printing classification.
- 44 8. Prime contracting classification.
- 45 9. Owner builder sales classification.

1 10. Restaurant classification.

2 J. The gross proceeds of sales or gross income derived from the
3 following shall be deducted from the tax base for the retail classification:

4 1. Sales made directly to the United States government or its
5 departments or agencies by a manufacturer, modifier, assembler or repairer.

6 2. Sales made directly to a manufacturer, modifier, assembler or
7 repairer if such sales are of any ingredient or component part of products
8 sold directly to the United States government or its departments or agencies
9 by the manufacturer, modifier, assembler or repairer.

10 3. Overhead materials or other tangible personal property that is used
11 in performing a contract between the United States government and a
12 manufacturer, modifier, assembler or repairer, including property used in
13 performing a subcontract with a government contractor who is a manufacturer,
14 modifier, assembler or repairer, to which title passes to the government
15 under the terms of the contract or subcontract.

16 4. Sales of overhead materials or other tangible personal property to
17 a manufacturer, modifier, assembler or repairer if the gross proceeds of
18 sales or gross income derived from the property by the manufacturer,
19 modifier, assembler or repairer will be exempt under paragraph 3 of this
20 subsection.

21 K. There shall be deducted from the tax base fifty per cent of the
22 gross proceeds or gross income from any sale of tangible personal property
23 made directly to the United States government or its departments or agencies,
24 which is not deducted under subsection J of this section.

25 L. The department shall require every person claiming a deduction
26 provided by subsection J or K of this section to file on forms prescribed by
27 the department at such times as the department directs a sworn statement
28 disclosing the name of the purchaser and the exact amount of sales on which
29 the exclusion or deduction is claimed.

30 M. In computing the tax base, gross proceeds of sales or gross income
31 does not include:

32 1. A manufacturer's cash rebate on the sales price of a motor vehicle
33 if the buyer assigns the buyer's right in the rebate to the retailer.

34 2. The waste tire disposal fee imposed pursuant to section 44-1302.

35 N. There shall be deducted from the tax base the amount received from
36 sales of solar energy devices, but the deduction shall not exceed five
37 thousand dollars for each solar energy device. Before deducting any amount
38 under this subsection, the retailer shall register with the department as a
39 solar energy retailer. By registering, the retailer acknowledges that it
40 will make its books and records relating to sales of solar energy devices
41 available to the department for examination.

42 O. In computing the tax base in the case of the sale or transfer of
43 wireless telecommunications equipment as an inducement to a customer to enter
44 into or continue a contract for telecommunications services that are taxable
45 under section 42-5064, gross proceeds of sales or gross income does not

1 include any sales commissions or other compensation received by the retailer
2 as a result of the customer entering into or continuing a contract for the
3 telecommunications services.

4 P. For the purposes of this section, a sale of wireless
5 telecommunications equipment to a person who holds the equipment for sale or
6 transfer to a customer as an inducement to enter into or continue a contract
7 for telecommunications services that are taxable under section 42-5064 is
8 considered to be a sale for resale in the regular course of business.

9 Q. Retail sales of prepaid calling cards or prepaid authorization
10 numbers for telecommunications services, including sales of reauthorization
11 of a prepaid card or authorization number, are subject to tax under this
12 section.

13 R. For the purposes of this section, the diversion of gas from a
14 pipeline by a person engaged in the business of operating a natural or
15 artificial gas pipeline, for the sole purpose of fueling compressor equipment
16 to pressurize the pipeline, is not a sale of the gas to the operator of the
17 pipeline.

18 S. If a seller is entitled to a deduction pursuant to subsection B,
19 paragraph 16, subdivision (b) of this section, the department may require the
20 purchaser to establish that the requirements of subsection B, paragraph 16,
21 subdivision (b) of this section have been satisfied. If the purchaser cannot
22 establish that the requirements of subsection B, paragraph 16, subdivision
23 (b) of this section have been satisfied, the purchaser is liable in an amount
24 equal to any tax, penalty and interest which the seller would have been
25 required to pay under article 1 of this chapter if the seller had not made a
26 deduction pursuant to subsection B, paragraph 16, subdivision (b) of this
27 section. Payment of the amount under this subsection exempts the purchaser
28 from liability for any tax imposed under article 4 of this chapter and
29 related to the tangible personal property purchased. The amount shall be
30 treated as transaction privilege tax to the purchaser and as tax revenues
31 collected from the seller to designate the distribution base pursuant to
32 section 42-5029.

33 T. For the purposes of section 42-5032.01, the department shall
34 separately account for revenues collected under the retail classification
35 from businesses selling tangible personal property at retail:

36 1. On the premises of a multipurpose facility that is owned, leased or
37 operated by the tourism and sports authority pursuant to title 5, chapter 8.

38 2. At professional football contests that are held in a stadium
39 located on the campus of an institution under the jurisdiction of the Arizona
40 board of regents.

41 U. In computing the tax base for the sale of a motor vehicle to a
42 nonresident of this state, if the purchaser's state of residence allows a
43 corresponding use tax exemption to the tax imposed by article 1 of this
44 chapter and the rate of the tax in the purchaser's state of residence is
45 lower than the rate prescribed in article 1 of this chapter OR IF THE

PURCHASER'S STATE OF RESIDENCE DOES NOT IMPOSE AN EXCISE TAX, and the nonresident has secured a special ninety day nonresident registration permit for the vehicle as prescribed by sections 28-2154 and 28-2154.01, there shall be deducted from the tax base a portion of the gross proceeds or gross income from the sale so that the amount of transaction privilege tax that is paid in this state is equal to the excise tax that is imposed by the purchaser's state of residence on the nonexempt sale or use of the motor vehicle.

V. For the purposes of this section:

1. "Aircraft" includes:

(a) An airplane flight simulator that is approved by the federal aviation administration for use as a phase II or higher flight simulator under appendix H, 14 Code of Federal Regulations part 121.

(b) Tangible personal property that is permanently affixed or attached as a component part of an aircraft that is owned or operated by a certificated or licensed carrier of persons or property.

2. "Other accessories and related equipment" includes aircraft accessories and equipment such as ground service equipment that physically contact aircraft at some point during the overall carrier operation.

3. "Selling at retail" means a sale for any purpose other than for resale in the regular course of business in the form of tangible personal property, but transfer of possession, lease and rental as used in the definition of sale mean only such transactions as are found on investigation to be in lieu of sales as defined without the words lease or rental.

W. For the purposes of subsection J of this section:

1. "Assembler" means a person who unites or combines products, wares or articles of manufacture so as to produce a change in form or substance without changing or altering the component parts.

2. "Manufacturer" means a person who is principally engaged in the fabrication, production or manufacture of products, wares or articles for use from raw or prepared materials, imparting to those materials new forms, qualities, properties and combinations.

3. "Modifier" means a person who reworks, changes or adds to products, wares or articles of manufacture.

4. "Overhead materials" means tangible personal property, the gross proceeds of sales or gross income derived from which would otherwise be included in the retail classification, and which are used or consumed in the performance of a contract, the cost of which is charged to an overhead expense account and allocated to various contracts based upon generally accepted accounting principles and consistent with government contract accounting standards.

5. "Repairer" means a person who restores or renews products, wares or articles of manufacture.

6. "Subcontract" means an agreement between a contractor and any person who is not an employee of the contractor for furnishing of supplies or services that, in whole or in part, are necessary to the performance of one

1 or more government contracts, or under which any portion of the contractor's
2 obligation under one or more government contracts is performed, undertaken or
3 assumed and that includes provisions causing title to overhead materials or
4 other tangible personal property used in the performance of the subcontract
5 to pass to the government or that includes provisions incorporating such
6 title passing clauses in a government contract into the subcontract.

7 Sec. 2. Section 43-222, Arizona Revised Statutes, as amended by Laws
8 2005, chapter 12, section 1, chapter 264, section 1, chapter 316, section 2
9 and chapter 317, section 10, is amended to read:

10 43-222. Income tax credit review schedule

11 Each year the joint legislative income tax credit review committee
12 shall review the following income tax credits:

13 1. In 2005, sections 43-1087, 43-1088 and 43-1175.

14 2. In 2006, sections 43-1073, 43-1089, 43-1089.01, 43-1089.02,
15 43-1090, 43-1176 and 43-1181.

16 3. In 2007, sections 43-1077, 43-1078, 43-1079, 43-1080, 43-1165,
17 43-1166, 43-1167 and 43-1169.

18 4. In 2008, sections 43-1074.01, 43-1081, 43-1168, 43-1170 and
19 43-1178.

20 5. In 2009, sections 43-1076, 43-1081.01, 43-1083, 43-1084, 43-1162
21 and 43-1170.01.

22 6. In 2010, sections 43-1075, and ~~43-1163.~~

23 ~~7. In 2010, sections 43-1079.01, and 43-1090.01, 43-1163, 43-1167.01~~
24 ~~AND 43-1182.~~

25 ~~8. 7. In 2011, section 43-1074.02.~~

26 Sec. 3. Repeal

27 Section 43-222, Arizona Revised Statutes, as amended by Laws 2005,
28 chapter 292, section 1, is repealed.

29 Sec. 4. Section 43-1001, Arizona Revised Statutes, is amended to read:
30 43-1001. Definitions

31 In this chapter, unless the context otherwise requires:

32 1. "Arizona adjusted gross income" of a resident individual means the
33 individual's Arizona gross income subject to modifications specified in
34 sections 43-1021 and 43-1022.

35 2. "Arizona gross income" of a resident individual means the
36 individual's federal adjusted gross income for the taxable year, computed
37 pursuant to the internal revenue code.

38 3. "Dependent" has the same meaning prescribed by section 152 of the
39 internal revenue code ~~except that section 152(b)(5) does not apply.~~

40 4. "Federal adjusted gross income" of a resident individual means the
41 individual's adjusted gross income computed pursuant to the internal revenue
42 code.

43 5. "Head of household" has the same meaning prescribed by sections
44 2(b) and 2(c) of the internal revenue code. Head of household includes an

1 individual who meets the qualifications of a surviving spouse under section
2 2(a) of the internal revenue code.

3 6. "Married person" means a married person on the last day of the
4 taxable year subject to the rules in section 43-1002.

5 7. "Net income" means taxable income.

6 8. "Person" means an individual.

7 9. "Single person" means any person who is not married or who was
8 legally separated on the last day of the person's taxable year.

9 10. "Spouse" means the wife or husband of the taxpayer.

10 11. "Taxable income" of a resident individual shall be Arizona adjusted
11 gross income less the exemptions and deductions allowed in article 4 of this
12 chapter.

13 12. "Taxpayer" means any person subject to a tax imposed by this
14 chapter.

15 Sec. 5. Section 43-1021, Arizona Revised Statutes, as amended by Laws
16 2005, chapter 316, section 3 and chapter 317, section 11, is amended to read:

17 43-1021. Additions to Arizona gross income

18 In computing Arizona adjusted gross income, the following amounts shall
19 be added to Arizona gross income:

20 1. A beneficiary's share of the fiduciary adjustment to the extent
21 that the amount determined by section 43-1333 increases the beneficiary's
22 Arizona gross income.

23 2. An amount equal to the "ordinary income portion" of a lump sum
24 distribution that was excluded from federal adjusted gross income pursuant to
25 section 402(d) of the internal revenue code.

26 3. The amount of interest income received on obligations of any state,
27 territory or possession of the United States, or any political subdivision
28 thereof, located outside the state of Arizona, reduced, for tax years
29 beginning from and after December 31, 1996, by the amount of any interest on
30 indebtedness and other related expenses that were incurred or continued to
31 purchase or carry those obligations and that are not otherwise deducted or
32 subtracted in arriving at Arizona gross income.

33 4. Annuity income received during the taxable year to the extent that
34 the sum of the proceeds received from such annuity in all taxable years prior
35 to and including the current taxable year exceeds the total consideration and
36 premiums paid by the taxpayer. This paragraph applies only to those
37 annuities with respect to which the first payment was received prior to
38 December 31, 1978.

39 5. The excess of a partner's share of partnership taxable income
40 required to be included under chapter 14, article 2 of this title over the
41 income required to be reported under section 702(a)(8) of the internal
42 revenue code.

43 6. The excess of a partner's share of partnership losses determined
44 pursuant to section 702(a)(8) of the internal revenue code over the losses
45 allowable under chapter 14, article 2 of this title.

1 7. The amount by which the adjusted basis of property described in
2 this paragraph and computed pursuant to the internal revenue code exceeds the
3 adjusted basis of such property computed pursuant to this title and the
4 income tax act of 1954, as amended. This paragraph shall apply to all
5 property which is held for the production of income and which is sold or
6 otherwise disposed of during the taxable year, except depreciable property
7 used in a trade or business.

8 8. The amount of depreciation or amortization of costs of any capital
9 investment that is deducted pursuant to section 167 or 179 of the internal
10 revenue code by a qualified defense contractor with respect to which an
11 election is made to amortize pursuant to section 43-1024.

12 9. The amount of gain from the sale or other disposition of a capital
13 investment which a qualified defense contractor has elected to amortize
14 pursuant to section 43-1024.

15 10. Amounts withdrawn from the Arizona state retirement system, the
16 corrections officer retirement plan, the public safety personnel retirement
17 system, the elected officials' retirement plan or a county or city retirement
18 plan by an employee upon termination of employment before retirement to the
19 extent they were deducted in arriving at Arizona taxable income in any year.

20 11. That portion of the net operating loss included in federal adjusted
21 gross income which has already been taken as a net operating loss for Arizona
22 purposes or which is separately taken as a subtraction under the special net
23 operating loss transition rule.

24 12. Any nonitemized amount deducted pursuant to section 170 of the
25 internal revenue code representing contributions to an educational
26 institution which denies admission, enrollment or board and room
27 accommodations on the basis of race, color or ethnic background except those
28 institutions primarily established for the education of American Indians.

29 13. The amount paid as taxes on property in this state with respect to
30 which a credit is claimed under section 43-1078.

31 14. Amounts withdrawn from a medical savings account by the individual
32 during the taxable year computed pursuant to section 220(f) of the internal
33 revenue code and not included in federal adjusted gross income.

34 15. Any amount of agricultural water conservation expenses that were
35 deducted pursuant to the internal revenue code for which a credit is claimed
36 under section 43-1084.

37 16. The amount by which the depreciation or amortization computed under
38 the internal revenue code with respect to property for which a credit was
39 taken under section 43-1080 exceeds the amount of depreciation or
40 amortization computed pursuant to the internal revenue code on the Arizona
41 adjusted basis of the property.

42 17. The amount by which the adjusted basis computed under the internal
43 revenue code with respect to property for which a credit was claimed under
44 section 43-1080 and which is sold or otherwise disposed of during the taxable

1 year exceeds the adjusted basis of the property computed under section
2 43-1080.

3 18. The amount by which the depreciation or amortization computed under
4 the internal revenue code with respect to property for which a credit was
5 taken under either section 43-1081 or 43-1081.01 exceeds the amount of
6 depreciation or amortization computed pursuant to the internal revenue code
7 on the Arizona adjusted basis of the property.

8 19. The amount by which the adjusted basis computed under the internal
9 revenue code with respect to property for which a credit was claimed under
10 section 43-1074.02; 43-1081 or 43-1081.01 and which is sold or otherwise
11 disposed of during the taxable year exceeds the adjusted basis of the
12 property computed under section 43-1074.02, 43-1081 or 43-1081.01, as
13 applicable.

14 20. The deduction referred to in section 1341(a)(4) of the internal
15 revenue code for restoration of a substantial amount held under a claim of
16 right.

17 21. The amount by which a net operating loss carryover or capital loss
18 carryover allowable pursuant to section 1341(b)(5) of the internal revenue
19 code exceeds the net operating loss carryover or capital loss carryover
20 allowable pursuant to section 43-1029, subsection F.

21 22. Any amount deducted pursuant to section 170 of the internal revenue
22 code representing contributions to a school tuition organization or a public
23 school for which a credit is claimed under section 43-1089 or 43-1089.01.

24 23. Any amount deducted in computing Arizona gross income as expenses
25 for installing solar stub outs or electric vehicle recharge outlets in this
26 state with respect to which a credit is claimed pursuant to section 43-1090.

27 24. Any wage expenses deducted pursuant to the internal revenue code
28 for which a credit is claimed under section 43-1087 and representing net
29 increases in qualified employment positions for employment of temporary
30 assistance for needy families recipients.

31 25. Any amount deducted for conveying ownership or development rights
32 of property to an agricultural preservation district under section 48-5702
33 for which a credit is claimed under section 43-1081.02.

34 26. The amount of any depreciation allowance allowed pursuant to
35 section 167(a) of the internal revenue code to the extent not previously
36 added.

37 27. With respect to property for which an expense deduction was taken
38 pursuant to section 179 of the internal revenue code, the amount in excess of
39 twenty-five thousand dollars.

40 28. The amount of any deductions that are claimed in computing federal
41 adjusted gross income representing expenses for which a credit is claimed
42 under section 43-1075.

43 29. THE AMOUNT BY WHICH THE DEPRECIATION OR AMORTIZATION COMPUTED UNDER
44 THE INTERNAL REVENUE CODE WITH RESPECT TO PROPERTY FOR WHICH A CREDIT WAS
45 TAKEN UNDER SECTION 43-1090.01 EXCEEDS THE AMOUNT OF DEPRECIATION OR

1 AMORTIZATION COMPUTED PURSUANT TO THE INTERNAL REVENUE CODE ON THE ARIZONA
2 ADJUSTED BASIS OF THE PROPERTY.

3 30. THE AMOUNT BY WHICH THE ADJUSTED BASIS COMPUTED UNDER THE INTERNAL
4 REVENUE CODE WITH RESPECT TO PROPERTY FOR WHICH A CREDIT WAS CLAIMED UNDER
5 SECTION 43-1090.01 AND WHICH IS SOLD OR OTHERWISE DISPOSED OF DURING THE
6 TAXABLE YEAR EXCEEDS THE ADJUSTED BASIS OF THE PROPERTY COMPUTED UNDER
7 SECTION 43-1090.01.

8 Sec. 6. Repeal

9 Section 43-1021, Arizona Revised Statutes, as amended by Laws 2005,
10 chapter 292, section 2, is repealed.

11 Sec. 7. Section 43-1022, Arizona Revised Statutes, is amended to read:
12 43-1022. Subtractions from Arizona gross income

13 In computing Arizona adjusted gross income, the following amounts shall
14 be subtracted from Arizona gross income:

15 1. The amount of exemptions allowed by section 43-1023.

16 2. Benefits, annuities and pensions in an amount totaling not more
17 than two thousand five hundred dollars received from one or more of the
18 following:

19 (a) The United States government service retirement and disability
20 fund, retired or retainer pay of the uniformed services of the United States,
21 the United States foreign service retirement and disability system and any
22 other retirement system or plan established by federal law.

23 (b) The Arizona state retirement system, the corrections officer
24 retirement plan, the public safety personnel retirement system, the elected
25 officials' retirement plan, an optional retirement program established by the
26 Arizona board of regents under section 15-1628, an optional retirement
27 program established by a community college district board under section
28 15-1451 or a retirement plan established for employees of a county, city or
29 town in this state.

30 3. A beneficiary's share of the fiduciary adjustment to the extent
31 that the amount determined by section 43-1333 decreases the beneficiary's
32 Arizona gross income.

33 4. The amount of any distributions from an individual retirement
34 account as provided for in section 408 of the internal revenue code or from a
35 qualified retirement plan of a self-employed individual as provided for in
36 section 401 of the internal revenue code to the extent that total adjustments
37 made pursuant to this paragraph in all tax years do not exceed the total of
38 all contributions made by the taxpayer to such plans prior to December 31,
39 1975, which were included in computing Arizona taxable income.

40 5. The amount of income on an installment receivable which is
41 recognized pursuant to the internal revenue code and which has already been
42 recognized on the death of the taxpayer for purposes of this title for tax
43 years ending before January 1, 1990.

1 6. Interest income received on obligations of the United States, less
2 any interest on indebtedness, or other related expenses, and deducted in
3 arriving at Arizona gross income, which were incurred or continued to
4 purchase or carry such obligations.

5 7. The amount of any income tax refunds which were received from
6 states other than Arizona and which were included as income in computing
7 federal adjusted gross income.

8 8. Annuity income included in federal adjusted gross income pursuant
9 to section 72 of the internal revenue code if the first payment with respect
10 to such annuity was received prior to December 31, 1978.

11 9. The excess of a partner's share of income required to be included
12 under section 702(a)(8) of the internal revenue code over the income required
13 to be included under chapter 14, article 2 of this title.

14 10. The excess of a partner's share of partnership losses determined
15 pursuant to chapter 14, article 2 of this title over the losses allowable
16 under section 702(a)(8) of the internal revenue code.

17 11. The amount by which the adjusted basis of property described in
18 this paragraph and computed pursuant to this title and the income tax act of
19 1954, as amended, exceeds the adjusted basis of such property computed
20 pursuant to the internal revenue code. This paragraph shall apply to all
21 property which is held for the production of income and which is sold or
22 otherwise disposed of during the taxable year other than depreciable property
23 used in a trade or business.

24 12. The amount allowed by section 43-1024 for amortization, by a
25 qualified defense contractor certified by the department of commerce under
26 section 41-1508, of a capital investment for private commercial activities.

27 13. The amount of gain included in federal adjusted gross income on the
28 sale or other disposition of a capital investment that a qualified defense
29 contractor has elected to amortize pursuant to section 43-1024.

30 14. The amount allowed by section 43-1025 for contributions during the
31 taxable year of agricultural crops to charitable organizations.

32 15. The portion of any wages or salaries paid or incurred by the
33 taxpayer for the taxable year that is equal to the amount of the federal work
34 opportunity credit, the empowerment zone employment credit, the credit for
35 employer paid social security taxes on employee cash tips and the Indian
36 employment credit that the taxpayer received under sections 45A, 45B, 51(a)
37 and 1396 of the internal revenue code.

38 16. The amount of prizes or winnings less than five thousand dollars in
39 a single taxable year from any of the state lotteries established and
40 operated pursuant to title 5, chapter 5, article 1, except that all such
41 winnings before March 22, 1983, including periodic distributions from such
42 winnings made after March 22, 1983, may be subtracted.

43 17. The amount of exploration expenses that is determined pursuant to
44 section 617 of the internal revenue code, that has been deferred in a taxable
45 year ending before January 1, 1990 and for which a subtraction has not

1 previously been made. The subtraction shall be made on a ratable basis as
2 the units of produced ores or minerals discovered or explored as a result of
3 this exploration are sold.

4 18. The amount included in federal adjusted gross income pursuant to
5 section 86 of the internal revenue code, relating to taxation of social
6 security and railroad retirement benefits.

7 19. To the extent not already excluded from Arizona gross income under
8 section 112 of the internal revenue code, compensation received for active
9 service as a member of the armed forces of the United States for any month
10 during any part of which the member served in a combat zone as determined
11 under section 112 of the internal revenue code or in an area given the same
12 treatment as a combat zone for purposes of section 112 of the internal
13 revenue code.

14 20. The amount of unreimbursed medical and hospital costs, adoption
15 counseling, legal and agency fees and other nonrecurring costs of adoption
16 not to exceed three thousand dollars. In the case of a husband and wife who
17 file separate returns, the subtraction may be taken by either taxpayer or may
18 be divided between them, but the total subtractions allowed both husband and
19 wife shall not exceed three thousand dollars. The subtraction under this
20 paragraph may be taken for the costs that are described in this paragraph and
21 that are incurred in prior years, but the subtraction may be taken only in
22 the year during which the final adoption order is granted.

23 21. The amount authorized by section 43-1027 for the taxable year
24 relating to qualified wood stoves, wood fireplaces or gas fired fireplaces.

25 22. With respect to a medical savings account established pursuant to
26 section 43-1028:

27 (a) An eligible individual may subtract:

28 (i) The amount of contributions made by the individual's employer
29 during the taxable year to the individual's medical savings account pursuant
30 to section 43-1028 to the extent that the employer contributions are included
31 in the individual's federal adjusted gross income.

32 (ii) The amount deposited by the individual in the account during the
33 taxable year to the extent that the individual's contributions are included
34 in the individual's federal adjusted gross income.

35 (b) The individual's employer may subtract the amount of contributions
36 made by the employer to a medical savings account established on the
37 individual's behalf to the extent that the contributions are not deductible
38 under the internal revenue code.

39 23. The amount by which a net operating loss carryover or capital loss
40 carryover allowable pursuant to section 43-1029, subsection F exceeds the net
41 operating loss carryover or capital loss carryover allowable pursuant to
42 section 1341(b)(5) of the internal revenue code.

43 24. Any amount of qualified educational expenses that is distributed
44 from a qualified state tuition program determined pursuant to section 529 of

1 the internal revenue code and that is included in income in computing federal
2 adjusted gross income.

3 25. Any item of income resulting from an installment sale that has been
4 properly subjected to income tax in another state in a previous taxable year
5 and that is included in Arizona gross income in the current taxable year.

6 26. The amount authorized by section 43-1030 relating to holocaust
7 survivors.

8 27. The amount authorized by section 43-1031 for constructing an energy
9 efficient residence.

10 28. An amount equal to the depreciation allowable pursuant to section
11 167(a) of the internal revenue code for the taxable year computed as if the
12 election described in section ~~168(k)(2)(C)(iii)~~ 168(k)(2)(D)(iii) of the
13 internal revenue code had been made for each applicable class of property in
14 the year the property was placed in service.

15 29. With respect to property that is sold or otherwise disposed of
16 during the taxable year by a taxpayer that complied with section 43-1021,
17 paragraph 26 with respect to that property, the amount of depreciation that
18 has been allowed pursuant to section 167(a) of the internal revenue code to
19 the extent that the amount has not already reduced Arizona taxable income in
20 the current or prior taxable years.

21 30. With respect to property for which an adjustment was made under
22 section 43-1021, paragraph 27, an amount equal to one-fifth of the amount of
23 the adjustment pursuant to section 43-1021, paragraph 27 in the year in which
24 the amount was adjusted under section 43-1021, paragraph 27 and in each of
25 the following four years.

26 Sec. 8. Section 43-1121, Arizona Revised Statutes, as amended by Laws
27 2005, chapter 317, section 13, is amended to read:

28 43-1121. Additions to Arizona gross income: corporations

29 In computing Arizona taxable income for a corporation, the following
30 amounts shall be added to Arizona gross income:

31 1. The amounts computed pursuant to section 43-1021, paragraphs 3
32 through 9, 12, 26 and 27.

33 2. The amount of dividend income received from corporations and
34 allowed as a deduction pursuant to sections 243, 244 and 245 of the internal
35 revenue code.

36 3. Taxes which are based on income paid to states, local governments
37 or foreign governments and which were deducted in computing federal taxable
38 income.

39 4. Expenses and interest relating to tax-exempt income on indebtedness
40 incurred or continued to purchase or carry obligations the interest on which
41 is wholly exempt from the tax imposed by this title. Financial institutions,
42 as defined in section 6-101, shall be governed by section 43-961,
43 paragraph 2.

1 5. Commissions, rentals and other amounts paid or accrued to a
2 domestic international sales corporation controlled by the payor corporation
3 if the domestic international sales corporation is not required to report its
4 taxable income to this state because its income is not derived from or
5 attributable to sources within this state. If the domestic international
6 sales corporation is subject to article 4 of this chapter, the department
7 shall prescribe by rule the method of determining the portion of the
8 commissions, rentals and other amounts which are paid or accrued to the
9 controlled domestic international sales corporation and which shall be
10 deducted by the payor. "Control" for purposes of this paragraph means direct
11 or indirect ownership or control of fifty per cent or more of the voting
12 stock of the domestic international sales corporation by the payor
13 corporation.

14 6. Federal income tax refunds received during the taxable year to the
15 extent they were deducted in arriving at Arizona taxable income in a previous
16 year.

17 7. The amount of net operating loss taken pursuant to section 172 of
18 the internal revenue code.

19 8. The amount of exploration expenses determined pursuant to section
20 617 of the internal revenue code to the extent that they exceed seventy-five
21 thousand dollars and to the extent that the election is made to defer those
22 expenses not in excess of seventy-five thousand dollars.

23 9. Amortization of costs incurred to install pollution control devices
24 and deducted pursuant to the internal revenue code or the amount of deduction
25 for depreciation taken pursuant to the internal revenue code on pollution
26 control devices for which an election is made pursuant to section 43-1129.

27 10. The amount of depreciation or amortization of costs of child care
28 facilities deducted pursuant to section 167 or 188 of the internal revenue
29 code for which an election is made to amortize pursuant to section 43-1130.

30 11. Arizona state income tax refunds received, to the extent the amount
31 of the refunds is not already included in Arizona gross income, if a tax
32 benefit was derived by deduction of this amount in a prior year.

33 12. The amount paid as taxes on property in this state by a qualified
34 defense contractor with respect to which a credit is claimed under section
35 43-1166.

36 13. The loss of an insurance company that is exempt under section
37 43-1201 to the extent that it is included in computing Arizona gross income
38 on a consolidated return pursuant to section 43-947.

39 14. The amount by which the depreciation or amortization computed under
40 the internal revenue code with respect to property for which a credit was
41 taken under section 43-1169 exceeds the amount of depreciation or
42 amortization computed pursuant to the internal revenue code on the Arizona
43 adjusted basis of the property.

1 15. The amount by which the adjusted basis computed under the internal
2 revenue code with respect to property for which a credit was claimed under
3 section 43-1169 and which is sold or otherwise disposed of during the taxable
4 year exceeds the adjusted basis of the property computed under section
5 43-1169.

6 16. The amount by which the depreciation or amortization computed under
7 the internal revenue code with respect to property for which a credit was
8 taken under either section 43-1170 or 43-1170.01 exceeds the amount of
9 depreciation or amortization computed pursuant to the internal revenue code
10 on the Arizona adjusted basis of the property.

11 17. The amount by which the adjusted basis computed under the internal
12 revenue code with respect to property for which a credit was claimed under
13 either section 43-1170 or 43-1170.01 and which is sold or otherwise disposed
14 of during the taxable year exceeds the adjusted basis of the property
15 computed under section 43-1170 or 43-1170.01, as applicable.

16 18. The deduction referred to in section 1341(a)(4) of the internal
17 revenue code for restoration of a substantial amount held under a claim of
18 right.

19 19. The amount by which a capital loss carryover allowable pursuant to
20 section 1341(b)(5) of the internal revenue code exceeds the capital loss
21 carryover allowable pursuant to section 43-1130.01, subsection F.

22 20. Any amount deducted in computing Arizona taxable income as expenses
23 for installing solar stub outs or electric vehicle recharge outlets in this
24 state with respect to which a credit is claimed pursuant to section 43-1176.

25 21. Any wage expenses deducted pursuant to the internal revenue code
26 for which a credit is claimed under section 43-1175 and representing net
27 increases in qualified employment positions for employment of temporary
28 assistance for needy families recipients.

29 22. Any amount of expenses that were deducted pursuant to the internal
30 revenue code and for which a credit is claimed under section 43-1178.

31 23. Any amount deducted for conveying ownership or development rights
32 of property to an agricultural preservation district under section 48-5702
33 for which a credit is claimed under section 43-1180.

34 24. The amount of any deduction that is claimed in computing Arizona
35 gross income and that represents a donation of a school site for which a
36 credit is claimed under section 43-1181.

37 25. The amount of any deductions that are claimed in computing federal
38 taxable income representing expenses for which a credit is claimed under
39 section 43-1163.

40 26. ANY AMOUNT DEDUCTED IN COMPUTING ARIZONA TAXABLE INCOME AS EXPENSES
41 FOR INSTALLING WATER CONSERVATION SYSTEM PLUMBING STUB OUTS IN THIS STATE
42 WITH RESPECT TO WHICH A CREDIT IS CLAIMED PURSUANT TO SECTION 43-1182.

43 Sec. 9. Repeal

44 Section 43-1121, Arizona Revised Statutes, as amended by Laws 2005,
45 chapter 292, section 4, is repealed.

APPROVED BY THE GOVERNOR APRIL²⁵ 10, 2006.

FILED IN THE OFFICE OF THE SECRETARY OF STATE APRIL 10, 2006.